IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 17395 of 2005

Between:

1. M. Prabhakar Rao, S/o. Venkatarao,
   1-11-111/5A, Shayamlal Buildings, Begumpet, Hyderabad
   Membership No. 4581.
2. T. Hanumantharao, S/o. Veeraiah,
   Plot No. 12999-K, Road No.66, Jubilee Hills, Hyderabad.
   Membership No. 1768.
3. V. Seshi Kumar, S/o. K. Vijayabalan,
   104, Siddharatha Apartment, 110, Shantinagar, Hyderabad.
   Membership No. 3068.
4. T. Subba Rao, S/o. Akaiah,
   PACS College, Pedanandipadu, Guntur,
   Membership No. 1790.

..... PETITIONERS

AND

1. The Government of Andhra Pradesh, Rep. by its Principal

Secretary Co-operation (Housing) Department, Secretariat,

Hyderabad.
2. The Registrar of Co-operative Societies, Government of Andhra

Pradesh, M.J. Road, Hyderabad.
3 The Person-In-Charge-Cum-Additional Registrar Jubilee Hills

Co-operative House Building Society Limited,
Jubilee Hills, Hyderabad.

.....RESPONDENTS

ORDER:

The Managing Committee of the Jubilee Hills Co-operative House Building Society Limited (hereinafter referred to as House Building Society) was superseded by the first respondent on 08.05.2002 and thereafter persons-in-charge to run the society were appointed successively and now the third respondent is appointed the person-in-charge to manage the affairs of the society, during the eclipse of the tenure of the elected management. The petitioners are members of the house building society, who are desirous and anxious to have an elected management in place.

The learned Government Pleader for Co-operation states on instructions that the respondents are ready and willing to initiate the process for elections to the house building society, but were in a dilemma as to whether the election should be held in view of the fact that Writ Petition No. 5776 of 2003 is pending adjudication before this Court.

It would appear that certain members of the house building society had raised a dispute before the A.P. Co-operative Tribunal, Hyderabad challenging the order of the first respondent superseding the Managing Committee by the order dated 08.05.2002. Eventually, the O.A. was rejected by the Tribunal as against which, writ Petition No.5776 of 2003 is filed. The apprehension of the respondents as addressed by the learned Government Pleader for Co-operation is that in the event

of W.P.No.5776 of 2003 being allowed, the term of the earlier Managing Committee which assumed office on 26.11.2000 would revive and they would be entitled to continue in office till 25.11.2005 and that in such an eventuality the conduct of elections now would be an avoidable expenditure.

The above apprehension of the respondents is misconceived. It is the conceded position that no interim orders have been passed in W.P.No.5776 of 2003 or in any other writ petition interdicting the conduct of elections to the house building society nor is there any order, which revives the term of the earlier elected managing committee. The basic premise running through the provisions of A.P. Co-operative Societies Act, 1964 is that cooperative societies should be managed by democratically elected managing committees and not by State Actors functioning as persons-in-charge, in subversion of a democratic regime Occasionally, situations may arise where the democratic process has to be suspended and in the interregnum between two such tenures of democratically elected managements a system of management by nominated officials may operate. But such situations are the exception and not the rule, else the text and structure of the A.P. Co-operative Societies Act and Rules, 1964 would be subverted in the corridors of the Secretariat. This subversion of the legislative purposes by the executive cannot be countenanced. In the case on hand there appears no justification for the interminable postponement of the management of the house building society by a democratically elected body.

On the above analysis, the writ petition is disposed of directing the respondents to expeditiously initiate the process of elections to the Jubilee Hills Co-operative House Building Society Limited. No costs.

_____

17-08-2005

kvrm